



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Functions relating to mental health matters

43 Independent mental health advocates

- (1) In section 130A of the Mental Health Act 1983 (independent mental health advocates: England), in subsection (1)—
 - (a) for “The Secretary of State” substitute “A local social services authority whose area is in England”, and
 - (b) at the end insert “for whom the authority is responsible for the purposes of this section”.
- (2) In subsection (4) of that section, for “the Secretary of State” substitute “a local social services authority”.
- (3) In section 130C of that Act (provision supplementary to section 130A), after subsection (4) insert—

“(4A) A local social services authority is responsible for a qualifying patient if—

 - (a) in the case of a qualifying patient falling within subsection (2)(a) above, the hospital or registered establishment in which he is liable to be detained is situated in that authority’s area;
 - (b) in the case of a qualifying patient falling within subsection (2)(b) above, that authority is the responsible local social services authority within the meaning of section 34(3) above;
 - (c) in the case of a qualifying patient falling within subsection (2)(c), the responsible hospital is situated in that authority’s area;
 - (d) in the case of a qualifying patient falling within subsection (3)—

Status: This is the original version (as it was originally enacted).

- (i) in a case where the patient has capacity or is competent to do so, he nominates that authority as responsible for him for the purposes of section 130A above, or
- (ii) in any other case, a donee or deputy or the Court of Protection, or a person engaged in caring for the patient or interested in his welfare, nominates that authority on his behalf as responsible for him for the purposes of that section.

(4B) In subsection (4A)(d) above—

- (a) the reference to a patient who has capacity is to be read in accordance with the Mental Capacity Act 2005;
- (b) the reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of that Act) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act;
- (c) the reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy is acting within the scope of his authority and in accordance with that Act.”

(4) In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions), in the entry for the Mental Health Act 1983, at the appropriate place insert—

“Section 130A

“Making arrangements to enable independent mental health advocates to be available to help qualifying patients”.